

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF NORTH CAROLINA

**U.S.A. vs. Terry Warren Upchurch**

**Docket No. 5:16-CR-27-1FL**

**Petition for Action on Supervised Release**

COMES NOW Dewayne L. Smith, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Terry Warren Upchurch, who, upon an earlier plea of guilty to Conspiracy to Distribute 50 Grams or More of Cocaine Base, in violation of 21 U.S.C. § 846, and Use of a Firearm in Relation to Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c) and 2, was sentenced in the Eastern District of Virginia by the Honorable John A. MacKenzie, U.S. District Judge, on October 31, 1995, to the custody of the Bureau of Prisons for a term of 248 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 5 years.

Terry Warren Upchurch was released from custody on June 24, 2013, at which time the term of supervised release commenced. On September 22, 2015, a Violation Report was submitted to the Eastern District of Virginia advising that Upchurch tested positive for cocaine on September 4, 2015. He signed an admission of drug use form acknowledging that he used powder cocaine on September 2, 2015. Upchurch was verbally reprimanded for his drug use, counseled about his actions, and referred for a substance abuse assessment. The probation officer recommended to continue supervision and transfer jurisdiction, which was completed on January 29, 2016.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS  
FOLLOWS:**

On May 13, 2016, the defendant reported to the probation office and signed an admission of drug use form acknowledging that he used powder cocaine on May 12, 2016. Upchurch was verbally reprimanded for this drug use, counseled about his actions, and he was instructed to attend outpatient substance abuse treatment sessions. As a sanction for this violation, we are recommending that he be placed on the home detention program for a period of 30 days. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

**PRAYING THAT THE COURT WILL ORDER** that supervised release be modified as follows:

The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 30 consecutive days. The defendant shall be restricted to residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

**Terry Warren Upchurch**  
**Docket No. 5:16-CR-27-1FL**  
**Petition For Action**  
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Reviewed and approved,

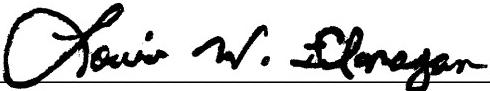
I declare under penalty of perjury that the foregoing  
is true and correct.

/s/ Dwayne K. Benfield  
Dwayne K. Benfield  
Supervising U.S. Probation Officer

/s/ Dewayne L. Smith  
Dewayne L. Smith  
U.S. Probation Officer  
201 South Evans Street, Rm 214  
Greenville, NC 27858-1137  
Phone: 252-830-2338  
Executed On: May 16, 2016

**ORDER OF THE COURT**

Considered and ordered this 17th day of May, 2016 and ordered filed and made a part of the records in the above case.

  
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LOUISE W. FLANAGAN  
United States District Judge